

MINUTES
BOARD OF APPEALS
Monday, May 20, 2013
City Hall, Room 604
5:30 p.m.

MEMBERS PRESENT: D. Carlson, B. Maccaux, J. Reck, J. Bunker, R. Marx

OTHERS PRESENT: J. & K. Spychalski, R. Ripley, G. Frisque, W. Lemerond, D. Eickmeyer, J. Ehrfurth, L. Adrian

D. Carlson called the meeting to order and asked the Board if anyone needed to abstain from voting; all replied no. He asked if any members had gone to the properties or talked to anyone regarding the requests; all replied no. D. Carlson who stated he visited #1, #3, #4 and #6.

APPROVAL OF MINUTES:

Approval of the April 15, 2013 minutes of the Board of Appeals

A motion was made by J. Reck and seconded by R. Marx to approve the April 15, 2013 minutes. All Board members voted aye. Motion carried.

D. Carlson stated a request was made to move items #5 and #6 to the beginning of the meeting.

New Business:

5. Joel Ehrfurth, Mach IV, on behalf of Fairchild Equipment Revocable Trust, property owner, proposes to pave within a required side yard in a Business Park (BP) District at 2325 Hutson Road. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code, Section 13-908, Table 9-2, side yard setback.

J. Ehrfurth stated this past winter the facility burned down and has since been razed. The owner would like to rebuild in that existing site. The building is situated as such that it can accommodate the current operations as well as leaving room to the south for possible expansion. He stated there is a storm sewer easement running on the west property line that precludes them from developing within 15' of the easement. The Fire Department stated their preference would be to have a 20' drive aisle going to the back. He stated they cannot get that without a variance.

D. Carlson asked if they own the property to the east and J. Ehrfurth stated he believed they do but was not 100% sure. D. Carlson then asked if he had any indication from the Fire Department in writing that states they would like this path put in. J. Ehrfurth stated that information came on some of the site plan comments. .

J. Bunker asked how much of a variance they needed. P. Neumeyer stated they are in Business Park Zoning District, 10' side yard setback which would include building and paving. He stated they are going down to zero.

A discussion was held regarding a zero setback and the Fire Department's request for a 20' aisle to the back of the building.

A motion was made by J. Bunker and seconded by R. Marx to grant the variance as requested. All Board members voted aye. Motion carried.

6. Joel Ehrfurth, Mach IV, on behalf of US Oil, Inc, property owner, proposes to pave within a required front yard in a Highway Commercial (C2) District at 606 Dousman Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code. Section 13-810, Table 8-2, front side yard setback.

J. Ehrfurth stated this lot is on the corner of Dousman Street and Maple Avenue. They currently have two entrances off Maple Avenue and two off Dousman Street. There is fairly limited parking so staff had previously parked on Maple Avenue but the City has since eliminated parking due to the proximity to the school. There is a small lot immediately north of the gas station which they are proposing to use as a parking lot for employees as well as customers. They are proposing to eliminate one of the driveways on Maple and shift the second one further north to get it back from the intersection to help with any congestion at that intersection. The existing gas station is essentially paved except for the southeast corner which is approximately 168 square feet. That is the drive aisle and if they have to shift it in further, they will lose the two new stalls as well as the only parking they have. They are asking for a variance to obtain the 170 square feet or so in that setback. In their opinion it will ease congestion on the corner and give the people a safer means of parking as well as relieve the congestion with that many entrances in that close proximity.

D. Carlson asked if it was paved at this time and J. Ehrfurth stated it was not. D. Carlson asked if this is where the dumpsters are stored and J. Ehrfurth stated yes. He stated they want to add a dumpster storage unit on the left side.

D. Carlson stated if the variance is granted as requested they would have a way for someone to drive in straight across. If the variance is denied, the rear entrance would only be for the parking lot. J. Ehrfurth stated yes.

J. Reck stated this item came before the Plan Commission and the Plan Commission dealt primarily with the north property line and esthetics, the fact that there were two entrances on Maple Street, one being taken away, and concern for traffic on Maple Avenue adjacent to the school. The Plan Commission approved the request for the project.

D. Carlson asked J. Reck if he was in a position to recues himself as he voted on this previously on the Plan Commission. J. Reck stated he did not feel it was necessary.

A motion was made by J. Bunker and seconded by J. Reck to grant the variance as requested. All Board members voted aye. Motion carried.

1. James Spychalski, property owner, proposes to expand an existing driveway located in a Low Density Residential (R1) District at 3028 Jauquet Drive. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code Section 13-1709(b)(1) interior yard setbacks for parking areas.

J. Spychalski stated they want to expand their driveway. He stated when he purchased the house he was told his property line to the east was further than it is. He stated he found the stakes and measured it out and they do not have enough property to make the variance of 2 ½ feet off the property line so he is asking to go only 1 foot off the property line to widen the driveway.

D. Carlson stated there were a couple dimensions on the plan that he could not read and wanted to clarify them. He stated it looks like there is 1 foot at the back corner. J. Spychalski stated it is 1 foot off the property line on the east all the way to the road.

J. Reck asked if the list of names provided to the Board were the neighbors and J. Spychalski stated yes. He stated the neighbors are all supportive of the project. The neighbor directly next to his property is a vacant lot but the owner has a garden there. J. Spychalski stated this neighbor is also very supportive of this project.

D. Carlson stated there is a significant slope that goes to the garden. He asked how J. Spychalski proposed to put in the side of the garage and maintain that area. J. Spychalski

stated he could either do a retaining wall or build it up instead of the slope. The neighbor is in agreement.

D. Carlson also mentioned the downspout that goes directly across the area that is to be paved at the front of the house. J. Spychalski thought he would put a rain barrel there. He also stated they were going to transplant one of the trees and leave the other where it is.

D. Carlson stated he did not see anything particularly unique about this situation. He stated that granting these variances would be anything other than rewriting the law.

J. Reck stated in the old days the houses were definitely smaller and this is a typical 3 bedroom ranch with a two stall garage. There is not a lot that can be done with it. To be able to have room to park on the side instead of the front would be preferred.

D. Carlson stated this is a quiet neighborhood and eventually the garden lot will be sold and that person may not appreciate the variance that was granted. If the Board was to grant the variance and did not have a good reason, he felt the Board would be open to some questions.

D. Carlson stated he was still struggling with a blanket variance. In the past there were situations where there was a definite hardship and he could understand and be swayed by a hardship which would otherwise be facilitated by a variance if the variance is relatively minor. He does have a relatively minor request in going from a 2 ½ foot setback to a 1 foot setback.

J. Reck asked Mr. Spychalski what the hardship would be if they did not grant this variance. Mr. Spychalski stated he had a larger than normal vehicle and he tries to keep everything in the garage so it keeps the neighborhood nice and neat. His truck does not fit in the garage and he wants to move it over a little bit. He stated he has a small utility trailer that is parked on the side of the garage.

R. Marx stated the key word for him is "typical". Everything about it is typical which means there is no hardship. He felt he would have a hard time with granting this variance.

D. Carlson stated one of the prerequisites that the Board has is to consider when granting the variance is to find if there is something special and unique about the property and the Board has been counseled by others that what this means is if there is something very typical about the property and still having a variance proposed, the Board may be treading on difficult ground. The Board is not here to rewrite the ordinance.

J. Reck stated in the spirit of parliamentary procedure the Board needs something to vote on or at least a motion.

A motion was made by J. Reck and seconded by J. Bunker to grant the variance as requested.

D. Carlson and R. Marx voted no. Motion failed and the variance was denied.

2. Rick Ripley, Catrip Properties, LLC, property owner, proposes to pave an existing gravel parking lot in a Varied Density Residential (R3) District at 1710-1716 Western Avenue. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code Section 13-1709(b)(1) interior yard setbacks for parking areas.

This was a foreclosed property when he purchased it. He stated there are four stalls located under the building and that is the total amount of parking for potentially four families. It does not allow for any additional parking. The area at the back of the lot is a non conforming area. Using the overhead diagram, R. Ripley indicated the areas he wanted to pave and the area where he will have green space.

D. Carlson stated his only comment is that he feels R. Ripley has a very legitimate hardship. He is okay with the housing but cannot provide parking spaces. He felt this was a significant hardship.

R. Marx stated he felt this was different than the first request.

A motion was made by R. Marx and seconded by B. Maccaux to grant the variance as requested. All members voted aye. Motion carried.

3. Greg Frisque, property owner, proposes to install an 8' x 30' concrete slab to an existing driveway located in a Low Density Residential (R1) District at 2220 9th Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code Section 13-1709(b)(1) interior yard setbacks for parking areas.

G. Frisque stated he would like to add an 8' by 30' concrete slab next to the existing driveway. He stated Ninth Street is very busy and he has relatives with children who are sometimes required to park in the street and he did not feel it was safe to have the kids on the street. He stated they would eventually like to have children and be able to park two cars in the driveway easily and not have to move them around. The setback would be 2' versus the 2 ½'. He stated he spoke to his neighbor and she is okay with his plan.

D. Carlson stated this property owner has a two stall garage and wants an additional 8' at the side of the driveway. He asked G. Frisque how he proposed to deal with the downspout in that area. G. Frisque stated the neighbor has a water issue in her basement so he would like to turn it toward the driveway and keep it away from her property as much as possible.

G. Frisque was asked about the Ninth Street traffic flow and difficulty getting in and out of his driveway. He stated when they have people over they have to shuffle cars in and out of the driveway as people come and go. He was then asked if it would make a difference if he added 7 ½' instead of 8' and he stated he would be willing to go less if he had to.

A motion was made by J. Bunker and seconded by B. Maccaux to grant the variance as requested. The vote was 4-1 with R. Marx voting no. Motion carried.

4. Wayne Lemerond, property owner, proposes to expand an existing driveway located in a Low Density Residential (R1) District at 1225 Thrush Street. The applicant requests to deviate from the following requirements in Chapter 13, Green Bay Zoning Code Section 13-1709(b)(1) interior yard setbacks for parking areas.

W. Lemerond stated he wants to expand his driveway 11' 9" and would like to change the 21' and 6' taper to make it 39' with a 5' taper. He stated he has approval from his neighbors.

D. Carlson stated he visited the property and noted he had his boat out in front of the house on that day.

R. Marx stated he was more apt to approve this because it is a very small lot with a substandard driveway.

D. Carlson agreed and stated his concerns were that it is not a busy street, and basically he has one spot in his garage. He stated there were plenty of reasons to deny this request. Basically his hardship is that he does not have a spot to put his boat.

W. Lemerond stated he is retired and every morning he is moving his vehicles to the road so his wife can leave for work. D. Carlson stated this was hardship but a self-imposed one because he bought the boat. He added one thing that sways him on this matter is that he is going right up to the neighbor's driveway and if the neighbor is okay with this, they are virtually in a position

to have a joint driveway. This isn't one where there is an issue where the neighbor really could complain. It is a single stall garage and he felt the hardship described is sufficient given the fact that there are other issues.

A motion as made by R. Marx and seconded by J. Bunker to grant the variance as requested. All members voted aye. Motion carried.

D. Carlson stated the Board is required to re-elect officers every year. At this point D. Carlson stated he would stand for re-election and currently B. Maccaux is Vice President.

A motion was made by J. Bunker and seconded by J. Reck to reappoint D. Carlson as Chairman of the Board of Appeals. All members voted aye. Motion carried.

A motion was made by B. Maccaux and seconded by J. Reck to appoint J. Bunker Vice President of the Board of Appeals. All members voted aye. Motion carried.

J. Reck stated he would like to have a discussion regarding all the requests for driveway expansions and the 2½' variance. J. Bunker felt when the request involves a single stall garage, it is a hardship. If every time someone leaves the property the cars have to be shuffled, that is a hardship. Almost every home has two cars and those with a single stall garage find it difficult to shuffle the cars.

A motion was made by J. Bunker and seconded by J. Reck to adjourn the meeting at 6:43 pm. All members voted aye. Motion carried.

Meeting adjourned.
jvr